

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DEANDRE JOHNNELL BERNARD,

Plaintiff,

v.

OFFICER KIBBEL, et al.,

Defendants.

ORDER

Case No. 17-cv-331-wmc

On May 8, 2017, I assessed plaintiff DeAndre Bernard an initial partial payment of \$50.68 due by May 30, 2017. Now plaintiff has submitted what I construe as a motion to use plaintiff's release account to pay the \$50.68 initial partial filing fee. Dkt. #8. I will grant plaintiff's motion.

Pursuant to 28 U.S.C. § 1915(b)(1), prison officials are required to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). Therefore, if sufficient funds do not exist in plaintiff's regular account to pay his initial partial payment, he can use his release account to pay the initial partial payment balance.

Plaintiff also raises concerns in his motion that he does not have money to buy stamps and says he does not know what to do. Plaintiff may be able to seek a legal loan through the institution's business office to assist him with the costs in this case, including postage costs. However, with the exception of initial partial payments, this court does not have the authority to tell state officials whether, and to what extent, a prisoner should be able to withdraw money from a release account.

Plaintiff is also reminded that Waupun Correctional Institution is currently participating in the court's prisoner e-filing program. Plaintiff should consult with the institution's library staff on how to go about making submissions to the court through the prisoner e-filing program. Enclosed with this order is the court's prisoner e-filing information packet.

ORDER

IT IS ORDERED that:

1. Plaintiff DeAndre Bernard's motion to use his release account funds to pay the \$50.68 initial partial filing fee is GRANTED. Plaintiff is to submit a check or money order made payable to the clerk of court in the amount of \$50.68 or advise the court in writing why plaintiff is not able to pay on or before June 22, 2017.
2. If by June 22, 2017, plaintiff fails to pay the \$50.68 initial partial filing fee or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff filing this case at a later date.

Entered this 2nd day of June, 2017.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge